

**REMARKS/ARGUMENTS**

This Amendment is being filed in response to the Office Action dated December 7, 2007. Reconsideration and allowance of the application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 2-10 and 12-14 are currently pending in the Application. Claims 1 and 11 are canceled herein, without prejudice. Claims 12-14 are added by this amendment. By means of the present amendment, claims 2-10 are amended for better conformance to U.S. practice, such as deleting reference numerals typically used in European practice that are known to not limit the scope of the claims. Further amendments include deleting "characterized in that" from the claims and beginning dependent claims with "The" as opposed to "A". By these amendments, claims 2-10 are not amended to address issues of patentability and Applicants respectfully reserve all rights under the Doctrine of Equivalents. Applicants furthermore reserve the right to reintroduce subject matter deleted herein at a later time during the prosecution of this application or continuing applications.

In the Office Action, the drawings are objected to for not showing "the free working distance  $d_F$ " previously referenced in the claims. By means of the present amendment, reference to "the free working distance  $d_F$ " is deleted from the claims. Accordingly, it is respectfully submitted that the drawings are in proper form as previously submitted and an indication to that effect is respectfully requested.

Claims 7 and 11 are objected to for being in improper multiply dependent form. Claims 7 is amended herein to cure the noted multiple dependency problem and claim 11 is canceled, without prejudice. Accordingly, it is respectfully submitted that claim 7 is in proper form and it is respectfully requested that this objection be withdrawn.

Claims 1-4, 6 and 8-10 are rejected under 35 U.S.C. §103(a) as allegedly obvious over U.S. Patent No. 6,069,853 to Novotny ("Novotny") in view of U.S. Patent No. 5,311,500 to Higuchi ("Higuchi"). Claim 5 is rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Novotny in view of Higuchi in further view of U.S. Patent No. 6,058,094 to Davis ("Davis"). It is respectfully submitted that claims 2-10 and 12-14 are allowable over Novotny in view of Higuchi alone, and in view of Davis for at least the following reasons.

It is undisputed that Novotny (emphasis added) "fails to teach explicitly about the recording stack having a first optical surface (6) most remote from the substrate (8); and having a second optical surface (7) closest to the recording stack (9)... in that at least one of the first optical surface (6) and the second optical surface (7) is provided with a transparent hydrophobic layer (10) that has a refractive index  $n$  and has a thickness smaller than  $0.5\lambda n$ ." (See, Office Action, page 4.) Higuchi is cited to supply that which is missing from Novotny. However, it is respectfully submitted that reliance on Higuchi is misplaced.

While Higuchi does show a moisture barrier, the moisture barrier is positioned on a side of the substrate remote from the recording layer (see, FIG. 1). As stated in Higuchi, "[a] moisture barrier layer 5 is provided on a surface (the outer surface) of the substrate 1 on the side opposite to the surface on which the magneto-optical recording layer 3 is provided." (See, FIG. 1 and Col. 3, lines 5-8.) FIG. 2 of Higuchi shows "a moisture barrier layer 5a of the same type as that described above [in FIG. 1 and] is provided on the outer surface of the substrate 1, on all of the edge faces of the substrate 1, on all of the edge faces of a plurality of the layer 2, [recording layer] 3 and 4 provided on the substrate 1, and on the outer surface of the second dielectric layer 4." FIG. 3 shows another embodiment including an upper and lower substrate 11 wherein the moisture barrier

similar as shown in FIG. 1, is deposited on a side of the substrate remote from the recording layer. FIG. 4 shows an embodiment similar as that shown in FIG. 2. However, Higuchi fails to show either of a first optical surface of the recording stack having deposited a transparent hydrophobic layer on a surface of the first optical surface remote from the recording stack or an optical head with an objective having a second optical surface closest to the recording stack deposited with a transparent hydrophobic layer on a surface of the second optical surface remote from a focused radiation beam.

Accordingly, it is respectfully submitted that the system of claim 12 is not obvious in view of the teachings of Novotny in view of Higuchi. For example, Novotny in view of Higuchi does not disclose or suggest, a system that amongst other patentable elements, comprises (illustrative emphasis provided) "[a]n optical recording and reading system, the system comprising: a laser configured to provide a focused radiation beam; an optical data storage medium comprising: a substrate, and a recording stack formed on the substrate having a first optical surface remote from the substrate, wherein the recording stack is configured for recording by the focused radiation beam; and an optical head, with an objective arranged on a recording stack side of the optical data storage medium and having a second optical surface closest to the recording stack, ..., wherein at least one of the first optical surface has deposited a transparent hydrophobic layer on a surface of the first optical surface remote from the recording stack or the second optical surface has deposited a transparent hydrophobic layer on a surface of the second optical surface remote from the focused radiation beam" as recited in claim 8. Further, it is respectfully submitted that the medium of claim 8 is not obvious in view of the teachings of Novotny in view of Higuchi. For example, Novotny in view of Higuchi does not disclose or suggest, a medium that amongst other patentable elements, comprises (illustrative emphasis provided) "a recording stack, formed on a substrate, said recording stack

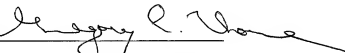
suitable for recording by means of a focused radiation beam with a wavelength  $\lambda$  in air, the recording stack having a first optical surface most remote from the substrate having deposited thereon a transparent hydrophobic layer that has a refractive index  $n$  and has a thickness smaller than  $0.5 \lambda/n$ " as recited in claim 8 and as similarly recited in claim 14. Davis is introduced for allegedly showing elements of a dependent claim and as such, does nothing to cure the deficiencies of Novotny in view of Higuchi.

Based on the foregoing, the Applicants respectfully submit that independent claims 8, 12 and 14 are patentable over Novotny in view of Higuchi and notice to this effect is earnestly solicited. Claims 2-10 and 13 depend from claim 12 and accordingly are allowable for at least this reason as well as for the separately patentable elements contained in each of the claims. Accordingly, separate consideration of each of the dependent claims is respectfully requested.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

Applicant has made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

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